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In re Application of
Cronce
Application No. 10/072,597
Filed: February 5, 2002
Title: Method and System For Delivery of
Secure Software License Information

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 30, 2006.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of January 23, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on April 24, 2006. A Notice of Abandonment was mailed on August 11, 2006.

Petitioner asserts that he spoke to Examiner Bayat in July of 2006. Petitioner states that the examiner told him although the amendment was visible in "PAIR", the amendment submitted on April 24, 2006 was not entered into PALM. Consequently, the application had to be abandoned for failure to file a proper reply. Petitioner states that the Examiner informed him since the Patent Office failed to enter the amendment, the applicant could file a petition to withdraw the holding of abandonment after the mailing of the Notice of Abandonment. Petitioner contends because the Notice of abandonment failed to mention the Office's failure to enter the amendment it is believed that the examiner's reason for abandonment is either incomplete, and/or in error and the holding of abandonment should be withdrawn.

A review of the Office record shows that the Office received the amendment after final Office Action on April 24, 2006. The Notice of abandonment shows that the application went abandoned not for the failure to reply to the final Office Action, but for the failure of the amendment to place the application in condition for allowance. Pursuant to 37 CFR 1.2, all business with the Patent and Trademark Office should be transacted in writing. The action of the Patent and Trademark Office will be based exclusively on the written

record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Further, pursuant to 37 CFR 1.116 (b) the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. MPEP 711.03 (c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
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By facsimile:

(571) 273-8300

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Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.



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Office of Petitions